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To: "Bob Sussman/DC/USEPA/US@EPA" <sussman.bob@epa.gov>
CC:
Subject: Sat WSJ

I hesitate to send this to you, although you probably have seen it. Spoke w Range and there is some contrition and a desire to work together. So please keep that in mind as you read the following. We should talk Monday:

WSJ: EPA Backpedals on Fracking Contamination Texas Water-Pollution Suit Dropped; Third Recent Setback on Drilling for Agency

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By DANIEL GILBERT <<http://online.wsj.com/search/term.html?KEYWORDS=DANIEL+GILBERT&bylinesearch=true>>
And RUSSELL GOLD <<http://online.wsj.com/search/term.html?KEYWORDS=RUSSELL+GOLD&bylinesearch=true>>

The Environmental Protection Agency has dropped its claim that an energy company contaminated drinking water in Texas, the third time in recent months that the agency has backtracked on high-profile local allegations linking natural-gas drilling and water pollution.

On Friday, the agency told a federal judge it withdrew an administrative order that alleged Range Resources Corp. had polluted water wells in a rural Texas county west of Fort Worth. Under an agreement filed in U.S. court in Dallas, the EPA will also drop the lawsuit it filed in January 2011 against Range, and Range will end its appeal of the administrative order.

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Ana Campoy/The Wall Street Journal

A pond near water wells that the EPA had said were polluted by natural-gas drilling in Parker County, Texas. The agency dropped its claim Friday.

In addition to dropping the case in Texas, the EPA has agreed to substantial retesting of water in Wyoming after its methods were questioned. And in Pennsylvania, it has angered state officials by conducting its own analysis of well water—only to confirm the state's finding that water once tainted by gas was safe.

Taken together, some experts say, these misfires could hurt the agency's credibility at a time when federal and state regulators seek ways to ensure that natural-gas drilling is done safely.

A growing number of industry, academic and environmental experts say that while drilling can cause water contamination, that can be avoided by proper use of cement seals and other safety measures.

By year's end, the EPA is set to release initial results of a study on the impact on water of hydrofracturing, or fracking, which involves using a high-pressure mixture of water, sand and chemicals to break apart energy-rich rocks. State officials contend they are in a better position to evaluate drilling procedures and safety in their areas, but they have been accused of laxity by environmentalists and local governments officials.

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EPA officials declined to comment on their broader efforts to regulate gas drilling. But in a statement, the agency said that settling with Range "allows EPA to shift the agency's focus in this particular case away from litigation and toward a joint effort on the science and safety of energy extraction." The agency said it and Range would continue to monitor water wells and share data.

Range is pleased the EPA has not found that its drilling was responsible for gas in water wells, said Matt Pitzarella, a Range spokesman.

Michael Webber, an energy and environment professor at the University of Texas in Austin, said the EPA's retreat in the Range case would give critics more ammunition and complicate the process of proposing rules for fracking.

"This is damaging to the EPA," he said, though he thinks the agency will move ahead with regulations.

On Dec. 7, 2010, the EPA publicly accused Range of causing natural gas to seep into water wells near some of its gas wells in north Texas. The agency largely based its decision on an analysis that compared the chemical makeup of the gas in Range's production wells and the gas found in private water wells, concluding they matched.

The EPA bypassed the Texas Railroad Commission, which it said failed to address an "imminent and substantial endangerment" to public health. It ordered Range to supply water to the affected residents, identify how gas was migrating into the aquifer, stop the flow and clean up the water.

After the EPA sued Range for not complying with its order, Range appealed, arguing that the agency's analysis was inconclusive. It pointed to nearby water wells that were known to contain high concentrations of gas long before it began drilling.

The railroad agency, which regulates oil and gas, concluded last year that gas most likely seeped into the aquifer from a shallow pocket of gas nearby, not the Barnett Shale, thousands of feet underground, from which Range was producing gas.

On Friday, the commission accused the EPA of "fear mongering, gross negligence and severe mishandling" of the case, calling for the firing of Al Armendariz, administrator of the region that covers Texas. The EPA would not make Mr. Armendariz available for an interview, and he did not respond to an e-mailed request for comment.

Kate Sinding, a senior attorney with the Natural Resources Defense Council, said the EPA's decision not to pursue a case against Range showed how important it is to test water quality before drilling begins. "This points out why it is so critically important to get a regulatory structure in place where companies are required to do thorough, publicly available baseline testing before they get in ground," she said.

In Pennsylvania, state regulators fined Cabot Oil & Gas

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<<http://online.wsj.com/public/quotes/main.html?type=djn&symbol=COG>> a Houston company that was found responsible for gas escaping into an aquifer in Dimock and that agreed to take remedial steps to clean up the water. After residents complained the efforts weren't good enough, the EPA in January said it would test drinking water at about 60 homes.

Earlier this month, the EPA released results from well water testing at 11 homes in Dimock and said the results "did not show levels of contamination that could present a health concern." This finding has been criticized by environmental groups, which argue that tests have found unsafe levels of gas and arsenic.

The EPA is also facing scrutiny from the gas industry and Wyoming's governor over an investigation of possible water contamination related to fracking near Pavillion, Wyo.

In December, the EPA released draft findings that groundwater there contained unsafe levels of benzene, a carcinogen, and other chemicals "consistent with gas production and hydraulic fracturing fluids."

But state officials and others disputed the findings, and the EPA has agreed to take more water samples and postpone a peer review of the findings. This process could take several more months, according to a spokesman for Republican Gov. Matt Mead.